



SAN LUIS OBISPO COUNTY

## DEPARTMENT OF PLANNING AND BUILDING

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DIRECTOR

**Date:** November 12, 2009 (Distributed October 30, 2009)

**To:** Planning Commission

**From:** Murry Wilson, Environmental Division  
Michael Conger, Current Planning Division

**Subject:** Transmittal of information requested at the October 22, 2009 hearing and Change Sheet #2

### **DISCUSSION**

At the October 22, 2009 Planning Commission hearing for the Grading and Stormwater Management Ordinance Revisions, your Commission requested that staff respond to several unanswered questions and to provide changes recommended by your Commission on Change Sheet #2. Staff has provided responses to the unanswered questions below as well as completing the changes identified during the Planning Commission hearing.

#### **Questions Raised during the October 22 Planning Commission Hearing**

How often do fines associated with grading violations get implemented?

Standard grading violations are generally remedied through the administrative fine process. In these cases, an administrative fine is collected in all circumstances where the violation has been confirmed.

For significant grading violations, the County generally pursues criminal prosecution through the Superior Court. Fine amounts are determined through the court system based upon either the assigned bail schedule or through a settlement agreement. The fine amount set through the settlement agreement is often based upon the civil penalties established in the County Code.

Can the County increase the administrative fines?

Administrative fines are not set through the County's Land Use Ordinance or Coastal Zone Land Use Ordinance. Instead these fees are established in Title 1 of the County Code. These administrative fines apply to violations of any standard in the County Code and are not specific to zoning, building, or grading violations. An amendment to Title 1 is outside of the scope of the Grading and Stormwater Management Revisions.

What are other jurisdictions doing with regards to preparation of land for crops (on slopes over 30 percent)?

The following Counties utilize agricultural lands for orchards and vineyard production similar to the County of San Luis Obispo. These jurisdictions have varied regulations related to the preparation of land.

**San Diego County** – Agricultural grading is exempt in the following circumstances (no restrictions pertinent to slopes):

- It involves less than 200 cubic yards of earthwork,
- No material will be imported or exported,
- No work will block or divert a natural drainage way, or
- The land has already been in agricultural production for one of the previous five years.

Where the above criteria cannot be met, an agricultural grading permit must be sought. Standards include:

- Importation / exportation limited to 200 cubic yards,
  - No work in a watercourse,
  - Cut slopes no steeper than 1.5:1,
  - Fill slopes no steeper than 2:1,
  - Stormwater and dust control standards are met,
  - No buildings are proposed other than a greenhouse or agricultural shade structure,
  - Applicant must sign a statement under penalty of perjury asserting that the grading is exclusively for agricultural uses and acknowledging restrictions of agricultural grading, and
  - All applications for non-agricultural development will be denied for a period of five years after agricultural grading permit is issued.
- A brush-clearing permit may be required if clearing of brush is needed to accommodate the agricultural use if the exemption criteria are not met.
  - A habitat removal permit may be required if a project is removing coastal scrub habitat.
  - A biological mitigation permit may be required within the multi-species conservation plan area.

**Santa Barbara County** – Agricultural grading is subject to the following restrictions and requirements:

- Agriculturally associated earthwork such as grading for recognized, normal and usual agricultural practices to prepare a field for a crop or range improvement, including such harrowing, disking, ridging, listing, fire breaks, chaining, maintenance of existing agricultural roads, and construction of support roads **on land with a natural gradient of less than 30 percent**, and similar practices which provide prudent measures for erosion control, and which conform to the recommendations of guidelines made or promulgated by the Santa Barbara County Agricultural Advisory Committee are exempt.
- Agricultural leveling (i.e. new fields for crop production) is exempt provided it does not create a cut or fill slope greater than 3 feet at any point.
- Native oak tree removal associated with the agricultural practices listed above that is subject to and complies with the Guidelines for Native Oak Tree Removal.

Agricultural grading not exempt above and which **are located on slopes with a natural gradient over 30 percent** and where earthwork exceeds fifty (50) cubic yards in volume and/or when excavation and fills are made in excess of three (3) feet in vertical distance to the natural contour shall require an erosion control permit for agriculturally associated grading such as:

- (1) Grading to establish any new agricultural road,
- (2) Terracing and leveling where the cut or fill slope exceeds three (3) feet in depth or height.

**Note:** 30 percent slopes exclude a project from agricultural grading if it does not meet the erosion control permit waiver and/or could result in environmental damages.

**Monterey County** – Agricultural grading is exempt in the following circumstances:

- Grading for cultivation is exempt from permits, with the exception of agricultural ponds.
- There is no restriction pertinent to slopes.
- Monterey County RCD has a program in place for the co-ordination of state and federal permits.

**Sonoma County** – Agricultural grading is subject to the following restrictions and requirements:

- Vineyard and orchard site development permits are required (depending on slopes and potential for erosion, a civil engineer may be required). Exceptions are hobby planting less than one half acre (orchard / vineyards) and replanting of dead or dying trees / vines in existing orchard / vineyard.
- The permit authority responsible for reviewing and making decisions on each type of permit application is identified by Table 11-4. Decisions of the permit authority approving or denying discretionary permit applications are subject to appeal. Discretionary permits are only required when a modification to standards is requested.

**Table 11-4 - Permit Authority**

Type of Permit Application	Permit Authority
Agricultural Grading	Agricultural Commissioner
Construction Grading	Director of Permit and Resource Management
Agricultural Drainage Improvement	Agricultural Commissioner
Construction Drainage Improvement	Director of Permit and Resource Management
Vineyard and Orchard Site Development	Agricultural Commissioner

- Established standards for benches and other cultivation practices (the County uses NRCS standards).
- Agricultural grading to prepare new land for agricultural crop production **shall be prohibited on natural slopes steeper than 50 percent.**
- Vineyard and orchard site development for vineyard and orchard planting **shall be prohibited on natural slopes steeper than 50 percent.**

**Napa County** – Agricultural grading is subject to the following restrictions and requirements:

- Setbacks for new land clearings for Agricultural Purposes. No clearing of land for new agricultural uses shall take place within the following setbacks from streams:

Slope (Percent)	Required Setback
< 1	35 feet
1—5	45 feet
5—15	55 feet
15—30	65 feet
30—40	85 feet
40—50	105 feet
50—60	125 feet
60—70	150 feet

- Uses Prohibited Without an Exemption. No structure, improvement, grading, earthmoving activity, vegetation removal, or development shall be permitted on a slope greater than fifty percent unless exempt.
- Existing vegetation shall be preserved to the maximum extent consistent with the project.
- Vegetation shall not be removed if it is identified as being necessary for erosion control in the approved erosion control plan or if necessary for the preservation of threatened or endangered plant or animal habitats as designated by state or federal agencies with jurisdiction and identified on the county's environmental sensitivity maps.
- Require an Agricultural Erosion Control Plan.
- Require a Vineyard Replanting Plan.

### **CHANGE SHEET SUMMARY**

Staff has prepared a summary of the Planning Commission and Staff initiated changes that have been made since the release of the public review draft. These changes are summarized below.

#### **Changes Already Discussed**

Change 2.2: Bring inland grading thresholds into alignment with the coastal grading thresholds described in Change Sheet 1 (Change 1.2).

Change 2.5c: Do not allow importation of topsoil, sand, or biosolids under this exemption.

Change 2.6: Move new water pipelines from “agricultural grading” to “exempt.”

Change 2.7: Add a reference to typical agricultural road widths.

Change 2.8a: Add a new Subsection E.5 to the Enforcement Section notifying the reader about violation of Air Pollution Control District (APCD) regulations.

Change 2.9: Add provisions for outreach and public education.

#### **Changes Warranting Further Discussion**

Change 2.3a: Require a Minor Use Permit for development on slopes between 20 and 30 percent, and a Variance for development on slopes over 30 percent.

*Staff Comments:* This change would require Minor Use Permit approval for a significant amount of new development. Staff has concerns with this change for several reasons:

- Minor Use Permit approval would add at least 2-3 months to the permitting process.
- Because of staff position reductions, adding additional permitting requirements could have the effect of lengthening the permit process for all projects.
- Minor Use Permits can cost between \$2,650 and \$6,654, depending on agency referrals and the required level of environmental review. This can add a substantial cost to development.
- Projects involving grading on slopes in excess of 20 percent will already require CEQA review as part of the grading permit process. In general, the conditions of a Minor Use Permit are similar to the CEQA mitigation measures that would be applied to a project.

Change 2.3b: Clarify the exemption of the slope limitation for agricultural purposes.

*Staff Comments:* The Planning Commission requested that the language be changed to avoid any misinterpretation that agricultural roads are exempt from grading permits. Staff has proposed revised language for the Commission's review.

Change 2.5a: Allow land exiting the Conservation Reserve Program to qualify under the ongoing crop production exemption.

*Staff Comments:* This was a request made by the Farm Bureau. This would allow land that was previously covered under this federal land conservation incentive program to be graded for crop production. Please note that such land may have entered into the program due to such characteristics as highly erosive soils or habitat value.

Change 2.5b: Do not allow ongoing range improvement to qualify for exemption if it will involve the removal of more than one-half acre of native vegetation.

*Staff Comments:* This requirement would mean that ranchers wishing to move more than 50 cumulative cubic yards of earth to accommodate vegetation modification would not qualify for the "Ongoing crop production and grazing" exemption if they were also proposing to remove more than one-half acre of native vegetation.

Change 2.8b: Add a new Subsection F to introduce a five-year permit restriction for projects where a grading violation has occurred.

*Staff Comments:* This requirement would allow the County to deny any development permits for five years on any site where a grading violation occurred. The five year restriction could be waived or reduced by the Board of Supervisors. This is similar to an existing provision in San Diego County's grading ordinance (reference: San Diego County Code Section 87.105).

### **Changes Not Yet Discussed**

Change 2.1: Allow Low Impact Development requirements to be imposed by resolution of the Board of Supervisors (**Topic 7 – Hydromodification Control**)

Change 2.4: Minor revisions requested by the Agricultural Commissioner's Office (**Topic 5 – Agricultural Grading and Alternative Review**)

Change 2.10: Modify the definition for excavation (**Topic 13 – Definitions**)

This item is scheduled on the November 12, 2009 Planning Commission agenda. If you have any questions prior to the hearing, feel free to contact Murry Wilson or Michael Conger at (805) 781-5600 or [mwilson@co.slo.ca.us](mailto:mwilson@co.slo.ca.us) or [mconger@co.slo.ca.us](mailto:mconger@co.slo.ca.us).

#### **STAFF REPORT ATTACHMENTS**

1. Change Sheet #2 for the August 28, 2009 Public Hearing Drafts

**PUBLIC HEARING DRAFT  
CHANGE SHEET #2  
NOVEMBER 12, 2009**

The following are a list of changes that affect the Public Hearing Draft versions of the Grading and Stormwater Management Revisions (dated August 28, 2009). The page numbers referenced in this change sheet reflect the location of the affected sections in the September 24, 2009 Planning Commission staff report. References to Change Sheet #1 will provide the page number in the October 22, 2009 staff report. All referenced documents are available on the County Planning's website at <http://www.sloplanning.org>. Click on "Grading and Stormwater Management Revisions" under the "News" heading.

The changes proposed herein are editorial in nature and do not affect the project description considered under the Environmental Impact Report. As such, no affect on the impact analysis is anticipated.

**Change 2.1: Allow Low Impact Development requirements to be imposed by resolution of the Board of Supervisors.**

Section Affected: 22.52.040 / 23.05.026

Page: 1-50 (Attachment C, Page 1)

Related Topic: Topic #7 – Hydromodification Control and the LID Handbook

Change:

22.52.040 - Administrative Procedures

[23.05.026]

**A. Compliance with building code.** All grading activities shall be in compliance with the provisions of 1997 Uniform Building Code Appendix Chapter 33, the currently adopted California Building Code, and adopted Appendices, which are hereby adopted and incorporated into this Title by reference as though it were fully set forth herein. In the event of any conflict between the provisions of this Chapter and the Uniform Building Code or California Building Code, this Title shall apply.

**B. Low Impact Development (LID) Handbook.** Low Impact Development requirements shall be imposed, and updated from time to time, by resolution of the Board of Supervisors after a noticed public hearing. Such requirements, when imposed, shall be a condition of the issuance of permits for, or the approval of, development projects.

Purpose: To allow the Board of Supervisors to adopt hydromodification control standards by resolution after a noticed public hearing. This section will allow enforceability of the LID provisions. Additionally, adoption by resolution gives the County more flexibility to respond to the changing requirements of the Regional Water Quality Control Board. This methodology was recommended by the Regional Board in their letter to Central Coast jurisdictions dated October 20, 2009.

**Change 2.2: Bring inland grading thresholds into alignment with the coastal grading thresholds described in Change Sheet 1 (Change 1.2)**

Section Affected: 22.52.060 / 23.05.030

Page: 1-51 (Attachment C, Page 2); Change 1.2 (Page 3-16)

Related Topic: Topic #4 – Grading Permit Thresholds / Topic #8 – Inland/Coastal Alignment

Change:

**a. (Inland) Eliminate the threshold between 50 and 500 cubic yards**

~~1.50-500 cubic yards.~~ The amount of material, measured cumulatively (adding together all proposed earthwork) for any of the above mentioned activities is between 50 and 500 cubic yards, inclusively, and one or more of the following is true:

~~1.~~

~~a. Cut/excavation.~~

~~a.~~

~~(1) The depth of excavation exceeds 1 foot.~~

~~(1)~~

~~(2) The height of the cut slope exceeds 3 feet.~~

~~(2)~~

~~(3) The cut slope is steeper than two horizontal to one vertical (2:1).~~

**(3)**

[Eliminate Figure 52-1 and Figure 52-2]

[Rename Figure 52-3 as Figure 52-1]

**b. (Inland) Change 500 cubic yard threshold to 50 cubic yards**

~~2.1. Greater than 500 cubic yards.~~ The amount of material, measured cumulatively (adding together all proposed earthwork) for any of the above mentioned activities exceeds 500 cubic yards.

~~3.2. Work in a watercourse.~~ The amount of material, measured cumulatively (adding together all proposed earthwork) for any of the above mentioned operations exceeds 20 cubic yards and involves altering or obstructing a drainage way or watercourse.

**c. Delete the separate Coastal Zone Land Use Ordinance version, as the coastal and inland versions are now equivalent.**

~~Coastal Zone Land Use Ordinance—Replace Subsection A with the following:~~

~~A. Grading.~~ For the purposes of this Chapter, "grading" is defined as all new earthwork that involves one or more of the following activities: excavations, cuts, fills, dams, reservoirs, levees, impoundments, diking, dredging, borrow pits, stockpiling, or compaction of fill. A grading permit is required in any of the following cases:

~~A.~~

~~1. 50 cubic yards.~~ The amount of material, measured cumulatively (adding together all proposed earthwork) for any of the above mentioned activities exceeds 50 cubic yards.

~~2.1. Work in a watercourse.~~ The amount of material, measured cumulatively (adding together all proposed earthwork) for any of the above mentioned operations exceeds 20 cubic yards and involves altering or obstructing a drainage way or watercourse.



Purpose: To accommodate the Planning Commission's request based on deliberations on October 22, 2009.

**Change 2.3: Bring inland slope limitations into alignment with the coastal slope limitations**

Section Affected: 22.52.060 / 23.05.030

Page: 1-53 (Attachment C, Page 4)

Related Topic: Topic #6 – Slope Limitation / Topic #8 – Inland/Coastal Alignment

Change:

- a. **Require a Minor Use Permit for development on slopes between 20 and 30 percent, and a Variance for development on slopes over 30 percent.**

3. **Slopes<sup>1</sup>.** Grading shall be limited to slopes of less than ~~30~~20 percent, except where:

*[Subject to Conservation and Open Space Element Policy Approval]*

- a. **Grading adjustment.** Grading on slopes between 20 percent and 30 percent may occur by Minor Use Permit or Conditional Use Permit approval, subject to the following:

- (1) The applicable review body has considered the specific characteristics of the site and surrounding area, including: the proximity of nearby streams or wetlands, erosion potential, slope stability, amount of grading necessary, neighborhood drainage characteristics, and measures proposed by the applicant to reduce potential erosion and sedimentation.
- (2) Grading and erosion control plans have been prepared by a registered civil engineer and accompany the request to allow the grading adjustment.
- (3) It has been demonstrated that the proposed grading is sensitive to the natural landform of the site and surrounding area.
- (4) It has been found that there is no feasible method of establishing an allowable use on the site without grading on slopes between 20 and 30 percent.

- ~~a.b.~~ **Variance.** The applicant has obtained Variance approval pursuant to Section 22.62.070<sup>2</sup>; or

- b. **Clarify the exemption of the slope limitation for agricultural purposes.**

- c. **Agricultural use.** The grading is exclusively for one or more of the following agricultural uses:

- (1) ~~an~~An exempt agricultural accessory structure as defined in Section 22.060.040E<sup>3</sup>;
- (2) ~~crop~~Crop production, or grazing, meeting the restrictions in Section 22.06.040E<sup>4</sup>.

<sup>1</sup> ~~Subsection B.2 to be replaced in CZLUO – see shaded area below.~~

<sup>2</sup> CZLUO reference: Section 23.01.045

<sup>3</sup> CZLUO reference: Section 23.08.041

<sup>4</sup> CZLUO reference: Section 23.03.040.d(9)

~~(3) This shall include a~~Any agricultural roads used exclusively for these purposes described  
above in Subsections B.2.c.(1) and B.2.c.(2).

Forn

While this Subsection exempts these above uses from the 30 percent slope limitation, ~~a grading permit may still be required if criteria for permit exemption is not met~~ this Subsection shall not be construed to exempt any uses from the requirement of obtaining a grading permit as described in Section 22.52.050<sup>5</sup>.

**c. Delete the separate Coastal Zone Land Use Ordinance version, as the coastal and inland versions are now equivalent.**

**~~Coastal Zone Land Use Ordinance— Replace Subsection B.2 with the following:~~**

**~~2.Slopes.~~** Grading shall be limited to slopes of less than 20 percent, except where:

~~2.~~

**~~a.Grading adjustment.~~** Grading on slopes between 20 percent and 30 percent may occur by Minor Use Permit or Development Plan approval, subject to the following:

~~a.~~

~~(1)The applicable review body has considered the specific characteristics of the site and surrounding area, including the proximity of nearby streams or wetlands, erosion potential, slope stability, amount of grading necessary, neighborhood drainage characteristics, and measures proposed by the applicant to reduce potential erosion and sedimentation.~~

~~(1)~~

~~(2)Grading and erosion control plans have been prepared by a registered civil engineer and accompany the request to allow the grading adjustment.~~

~~(2)~~

~~(3)It has been demonstrated that the proposed grading is sensitive to the natural landform of the site and surrounding area.~~

~~(3)~~

~~(4)It has been found that there is no feasible method of establishing an allowable use on the site without grading on slopes between 20 and 30 percent.~~

~~(4)~~

**~~b.Variance.~~** The applicant has obtained Variance approval pursuant to Section 23.01.045 to allow grading on slopes of 30 percent or greater; or

~~b.~~

**~~c.Agricultural use.~~** The grading is exclusively for an exempt agricultural accessory structure, crop production, or grazing, meeting the restrictions in Sections 23.08.041 and 23.03.040.d.(9), respectively. This shall include any roads used exclusively for these purposes. While this Subsection exempts these uses from the 30 percent slope limitation, a grading permit may still be required if criteria for permit exemption is not met.

~~c.~~

**Purpose:** To accommodate the Planning Commission's request based on deliberations on October 22, 2009.

<sup>5</sup> CZLUO Reference; Section 23.05.028

**Change 2.4: Minor revisions requested by the Agricultural Commissioner's Office.**

Section Affected: 22.52.070 / 23.05.032 – Subsections A.1 and C.2.a

Page: 1-54 (Attachment C, Page 5); Change 1.3 (Page 3-17); Change 1.8a (Page 3-20)

Related Topic: Topic #5 – Agricultural Grading and Alternative Review

Change:

**a. Allow agricultural exemptions in Subsection B to apply in GS and FH.**

**A. Minimum requirements to determine exempt status.** The following considerations must be addressed in determining if grading activities qualify for an exemption.

1. Grading activities are not exempt within a geologic study area and/or flood hazard combining designations as shown in the Land Use Element. Agricultural grading as provided by Subsections s B and C, Alternative Review as provided by Section 22.52.080<sup>6</sup>, and geotechnical/geologic exploration activities are not subject to this limitation.

**b. Reference commercial soil importation in Subsection C.**

**2. Allowed agricultural grading.**

- a. **Crop production.** Grading to prepare new land for crop production on slopes with a natural gradient less than twenty percent where no off-site fill is proposed. Importation of commercial soil amendments as specified in Subsection B.11.c is permissible under this exemption.

Purpose: To accommodate changes requested by the Agricultural Commissioner's Office.

**Change 2.5: Modify the exemption for ongoing crop production and grazing.**

Section Affected: 22.52.070 / 23.05.032

Page: 1-57 (Attachment C, Page 8); Change 1.6 (Page 3-19)

Related Topic: Topic #5 – Agricultural Grading and Alternative Review

Change:

**a. Allow land exiting the Conservation Reserve Program to qualify under the ongoing crop production exemption.**

- a. For grading activities related to crop production, the proposed grading is limited to preparing a field for a crops on land that has been previously cultivated within the previous five years or covered under a conservation plan prepared as part of the Conservation Reserve Program. Cultivation shall include the following practices: disking, harrowing, raking or chiseling, planting, plowing, seeding, or other tilling.

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<sup>6</sup> CZLUO Reference: 23.05.034

**b. Do not allow ongoing range improvements to qualify for exemption if it will involve the removal of more than one-half of an acre of native vegetation.**

- b. For grading activities related to range management for commercial livestock production, the grading is limited to the following activities: vegetation management, such as reseeding or vegetation modification (except for removal of one-half acre or more of native vegetation); or livestock watering systems other than ponds or reservoirs.

**c. Do not allow the importation of topsoil, sand, or biosolids under this exemption.**

- c. All site work shall be balanced. No importation or exportation of fill material from/to off-site parcels shall occur. These fill materials include topsoil, sand, and biosolids. The incorporation of soil fertility amendments to enhance crop production or rangeland fertility is permissible under this exemption. Soil fertility amendments include materials described in the California Food and Agricultural Code Sections 14511 et seq (excluding Sections 14552(e) and 14560).

Purpose: To accommodate the Planning Commission's request based on deliberations on October 22, 2009.

**Change 2.6: Move new water pipelines from "agricultural grading" to "exempt"**

Section Affected: 22.52.070 / 23.05.032; 22.52.080 / 23.05.034

Page: 1-59 (Attachment C, Page 10)

Related Topic: Topic #5 – Agricultural Grading and Alternative Review

Change:

**a. Delete Subsection C.2.b.**

~~b. **Water pipelines.** Installation of water pipelines to serve agricultural uses. Water pipelines shall be installed under proper practices recognized by the Natural Resources Conservation Service.~~

~~b.~~

**b. Add new Subsection B.13.**

13. **Water pipelines.** Installation of water pipelines to serve agricultural uses. Water pipelines shall be installed under proper practices recognized by the Natural Resources Conservation Service.

**c. Add references to Subsection B.13 in the Alternative Review Section.**

10. **Imbalanced Grading.** Any agricultural grading identified in Section 22.52.070<sup>7</sup>, Subsections B.11, B.13, and C which would require the importation or exportation of fill material.

11. **Exempt uses.** At the applicant's option the Alternative Review Program may be used in lieu of exemption for grading projects described in Section 22.52.070<sup>8</sup> – Subsections B.11, B.12, B.13, and C.

<sup>7</sup> CZLUO reference: 23.05.032

<sup>8</sup> CZLUO reference: 23.05.032

Purpose: To accommodate the Planning Commission's request based on deliberations on October 22, 2009.

**Change 2.7: Add a reference to typical agricultural road widths.**

Section Affected: 22.52.080 / 23.05.034

Page: 1-61 (Attachment C, Page 12); Change 1.9 (Page 3-21)

Related Topic: Topic #5 – Agricultural Grading and Alternative Review

Change:

12. **New agricultural roads.** New roads providing access to farm fields, pastures, water supplies, outdoor equipment or supply storage areas, livestock grazing areas, fence lines, or an agricultural structure which does not require a county building permit (agricultural exempt structure). New roads shall be the minimum width necessary for the planned agricultural use (generally between 12 and 16 feet in width), consistent with the determination made under Subsection A.5. The road shall not supply access to a habitable structure. Ford crossings (i.e. "Arizona" crossings), as determined to be appropriate by the Agricultural Commissioner, may be included in the construction of new agricultural roads.

Purpose: To accommodate the Planning Commission's request based on deliberations on October 22, 2009.

**Change 2.8: Modify enforcement provisions.**

Section Affected: 22.52.190 / 23.05.056

Page: 1-116 (Attachment C, Page 67); Change 1.12 (Page 3-22)

Related Topic: Topic #3 – Enforcement

Change:

- a. **Add a new Subsection E.5 to the Enforcement Section notifying the reader about violation of air pollution control regulations.**
5. Violations of San Luis Obispo County Air Pollution Control District (APCD) Rules or fugitive dust mitigation measures, the California Air Resources Board Asbestos Air Toxics Control Measure (ATCM) for Construction, Grading, Quarrying, and Surface Mining Operations, and the National Emission Standard for Hazardous Air Pollutants may result in required mutual settlements and or significant civil and/or criminal penalties as specified in state and federal law.

**b. Add a new Subsection F to introduce a five-year permit restriction for projects where a grading violation has occurred.**

- F. Denial of subsequent permits. Violation of any of the provisions of this Chapter shall be grounds for denying for five years all applications for building permits, grading permits, land use permits, tentative subdivision maps, general plan amendments, and other land development applications proposed for the site on which the violation occurred. The five-year period shall commence from the date of discovery of the violation. The Board of Supervisors may waive or reduce the penalty imposed by this subsection, for good cause. Any such waiver, if granted, shall in no way relieve the owner or applicant for any such subsequent land development application, of their duty to include the effects of the grading or clearing in any environmental analysis performed for the subsequent application, and to restore or rehabilitate the site, provide substitute or compensating resources, or perform other appropriate measures to mitigate the adverse effects of the illegal grading or clearing.

[Renumber Subsection F – Remedies not exclusive – as Subsection G]

Purpose: Part A will accommodate a request from the Air Pollution Control District. Part B will accommodate the Planning Commission's request based on deliberations on October 22, 2009.

**Change 2.9: Add provisions for outreach and public education.**

Section Affected: 22.52.200 / 23.05.030

Page: 1-116 (Attachment C, Page 67)

Related Topic: Topic #11 – Refining / Reformatting

Change:

22.52.010 - ~~Professional Education Program~~ Education and Outreach

[23.05.057]

A. Outreach and Public Education. A formal outreach and public education program shall be implemented to reach the broadest possible audience, including grading contractors, heavy equipment, operators, and other professionals involved in grading and/or earthwork. This program shall include, but shall not be limited to, informational handouts, webpage information, and notification of requirements distributed with construction and land use permits.

B. Professional Education Program. In the event that the County adopts a certification Program for grading contractors, where state law requires that earthwork, grading, excavation or fill be performed by a licensed contractor, that licensed contractor shall also be certified by the County. Certification requirements shall be as established by the Board, and may include, but not necessarily be limited to, satisfactory knowledge and understanding of the County Grading, Drainage and Erosion and Sedimentation Control Ordinance, and/or familiarity with and continuing education in accepted grading, drainage, erosion and sedimentation control methods.

Purpose: To accommodate the Planning Commission's request based on deliberations on October 22, 2009.

**Change 2.10: Modify the definition for excavation.**

Section Affected: Chapter 22.80 / Chapter 23.11

Page: 1-118 (Attachment E, Page 1)

Related Topic: Topic #13 – Definitions

Change:

**Excavation.** Any activity by which earth, sand, gravel, rock or any other similar material is dug into, cut, quarried, uncovered, removed, displaced, relocated or bulldozed and shall include the conditions resulting thereof. Excavation excludes activities associated with ~~ongoing~~ crop production ~~on existing fields~~, such as cultivation, disking, harrowing, raking or chiseling, planting, plowing, seeding, or other tilling.

Purpose: To clarify that the definition of excavation does not include agricultural cultivation techniques regardless of whether the cultivation occurs on existing fields. This satisfies a request made both by the Farm Bureau and the Paso Robles Wine Country Alliance.